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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/721,785	11/22/2000	Cary A. Jardin	042390.P8899	3950

7590 02/14/2007  
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EXAMINER

PICH, PONNOREAY

ART UNIT PAPER NUMBER

2135

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/721,785

Applicant(s)

JARDIN ET AL.

Examiner

Ponnoreay Pich

Art Unit

2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 6-12, 15, 16, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-12, 15-16, and 19-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/29/2006 has been entered. Any well known art statements made in the prior office action not specifically or adequately traversed are taken as admittance of prior art as per MPEP 2144.03.

Claims 1-3, 6-12, 15-16, and 19-20 are pending. It is noted that an Advisory action was mailed out on 9/14/2006 traversing applicant's arguments for claims which were not amended. As applicant has not responded with any further arguments with regards to the claims not amended, it is assumed that the rejections made in the prior office action for these claims are still valid. The rejections on art made in the Final Office action on 5/24/2006 for claims 2-3, 6, and 8-11 as well as the Advisory action mailed on 9/14/2006 are incorporated herein for reference. Further, note new rejections presented below.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The

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abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract contains legal phraseology "said" in line 9.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-12, 15-16, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKelvey (US 5,896,499) in view of applicant's admittance of prior art, herein AAPA.

#### **Claim 1:**

McKelvey discloses:

1. A computer (Fig 1, item 100 and col 5, lines 48-59).
2. A network interface device to provide the computer with access to the network (Fig 1, item 170).
3. A bus monitor, i.e. main processor 110, to monitor a first link, i.e. system bus 105, between the network interface device and the computer, where the bus

monitor reports detected failures or intrusion (col 6, lines 28-30 and col 9, lines 32-62).

4. A security switch to switch the first link from a non-secured mode using an HTTP protocol to a secured mode when a report of the detected failures or intrusions is received from the bus monitor (col 8, lines 36-38; col 9, lines 36-38; and col 9, line 66-col 10, line 5).

It is noted that while the bus monitor and the security switch is referred to separately in claim 1, applicant's specification discloses that the security switch, bus monitor, and controller may either be separate devices or a single element. In McKelvey's invention, the bus monitor and security switch's operations are performed by the main processor 110. Note also that the main processor of McKelvey's invention may be a single processor or multiple specialty processors working in concert (col 6, lines 45-48).

McKelvey does not explicitly disclose the secured mode uses an HTTP-S protocol. However, McKelvey discloses the embedded security processor may use encryption to transform data packets (col 9, lines 5-8). One skilled should appreciate that HTTP-S is merely HTTP used with SSL to encrypt the HTTP packets. Further, AAPA discloses that both HTTP and HTTP-S were well known web protocols at the time applicant's invention was made (specification, page 2).

It would have been obvious to one skilled in the art to modify McKelvey's invention such that instead of totally disabling the embedded processor when an error

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or intrusion is detected, the secured mode uses the HTTP-S protocol by having the embedded secure processor encrypt HTTP packets. One skilled would have been motivated to do so because McKelvey discloses encryption of the data packets would maintain confidentiality of the packets (col 9, lines 5-8). Note that in the case that there is an intruder, this prevents the intruder from being able to easily read the packets while still allowing use of the expansion board to connect to the network.

**Claim 2:**

McKelvey does not explicitly disclose wherein said computer is a server. However, AAPA discloses a computer being a server was well known in the art at the time applicant's invention was made (spec, page 1, lines 15-17).

It would have been obvious to one skilled in the art to incorporate McKelvey's teachings within server computers because McKelvey's teachings would provide security for a computer accessible via a computer network, i.e. server (col 5, lines 35-37).

**Claim 3:**

As per the limitation, "wherein the network operates in the secured mode using the HTTP-S protocol", note that McKelvey discloses the network that his computer is connected to is the Internet (col 9, line 66-col 10, line 5). One skilled should appreciate that HTTP-S is a secure protocol that is used on the Internet thus the network disclosed by McKelvey operates in the secured mode using the HTTP-S protocol.

**Claim 6:**

McKelvey further discloses a controller that receives the report from the bus monitor and sends a control signal to the network interface device, the security switch, and the computer (col 6, lines 28-57 and col 8, lines 18-21).

**Claim 7:**

McKelvey further discloses an encryption element in the computer, where the encryption element converts data placed on the first link using the secured mode when the control signal is received from the controller (col 9, lines 5-8).

**Claim 8:**

Claim 8 recites limitations similar to what is recited in claims 1-2, and 6 and is rejected for the same reasons given therein.

**Claim 9:**

McKelvey further discloses network is the Internet (col 7, line 66-col 8, line 2).

**Claim 10:**

McKelvey further discloses wherein the controller sends a control signal to the computer when failures or intrusions are detected on the link (col 9, lines 46-62). The computer being a sever is obvious to McKelvey's modified invention as discussed in claim 2.

**Claim 11:**

McKelvey further discloses an encryption element in the computer, where encryption element converts data placed on the link by the computer using the secured protocol when the control signal is received from the controller (col 9, lines 5-8). The

computer being a sever is obvious to McKelvey's modified invention as discussed in claim 2.

**Claims 12 and 16:**

McKelvey discloses:

1. Monitoring a link between a network device and a computer (col 6, lines 28-30 and col 9, lines 32-62).
2. First directing the link to use a secure protocol when failures or intrusions are detected on the link (col 8, lines 36-38; col 9, lines 36-38; and col 9, line 66-col 10, line 5).
3. The link using the HTTP protocol (col 9, line 66-col 10, line 5).

McKelvey does not explicitly disclose the secure protocol being used is HTTP-S. However, McKelvey discloses the embedded security processor may use encryption to transform data packets (col 9, lines 5-8). One skilled should appreciate that HTTP-S is merely HTTP used with SSL to encrypt the HTTP packets. Further, AAPA discloses that both HTTP and HTTP-S were well known web protocols at the time applicant's invention was made (specification, page 2).

It would have been obvious to one of ordinary skill in the art to modify McKelvey's invention in light of AAPA such that the secure protocol disclosed by McKelvey uses HTTP-S. One skilled would have been motivated to do so for the same reasons given in claim 1.



McKelvey also does not explicitly disclose directing the link to revert to an HTTP protocol when the detected failures or intrusions have been corrected. However, as discussed in a prior office action, it was well known in the art of security to revert back to a non-secure or less secure mode of operation once an intrusion or error has been corrected. It would have been obvious to one skilled in the art to further modify McKelvey's invention such that once the detected failures or intrusions have been corrected, the link is directed to revert to using the HTTP protocol once more. One skilled would have been motivated to do so because use of HTTP is faster than HTTPS since encryption of data packets does not have to be performed. If there is no longer any error or intrusion, continued use of heightened security protocols is unnecessary and only slows down the computer.

**Claim 15:**

Claim 15 recites a limitation similar to what is recited in claim 2 and is rejected for the same reasons.

**Claims 19 and 20:**

Claims 19-20 recite the further limitation wherein the link reverts to the HTTP protocol when a network manager determines that the detected failures or intrusions have been corrected. As discussed in claims 12 and 16, it would have been obvious to revert back to the HTTP protocol when the detected failures or intrusions have been corrected. One skilled should appreciate that use of some sort of network manager is necessary to make the determination if the failures/intrusions have been corrected, thus

the limitation is obvious to McKelvey's modified invention as discussed in the rejection of claims 12 and 16.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ponnoreay Pich whose telephone number is 571-272-7962. The examiner can normally be reached on 9:00am-4:30pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PP

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Art Unit 2135

  
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